

**REMARKS**

**I. Status of the Claims**

Claims 1-19 were originally filed in this case. Claim 6 was amended. Claims 1, 5, 8, 11, 13, 16, and 17 are currently amended. Claims 2, 3, 4, 7, 9, 10, 12, 14, 15, 18, and 19 are original. No claims are canceled. Claims 1-19 are pending in this case.

**II. Claim Rejections**

1. Claims 1-8 stand rejected under 35 USC § 102(b) as being anticipated by Kajita, U.S. Patent 4,273,217.

2. Claim 9 stands rejected under 35 USC § 103(a) as being unpatentable over Kajita, U.S. Patent 4,273,217, in view of Olson, U.S. Patent 4,274,794.

3. Claim 10 stands rejected under 35 USC § 103(a) as being unpatentable over Kajita, U.S. Patent 4,273,217, in view of Poindexter, U.S. Patent 5,651,657.

4. Claims 11-13, 16, and 17 stand rejected under 35 USC § 103(a) as being unpatentable over Uhrich et al., U.S. Patent 3,703,968.

5. Claims 14 and 18 stand rejected under 35 USC § 103(a) as being unpatentable over Uhrich et al., U.S. Patent 3,703,968, in view of Olson, U.S. Patent 4,274,794.

6. Claims 15 and 19 stand rejected under 35 USC § 103(a) as being unpatentable over Uhrich et al., U.S. Patent 3,703,968, in view of Poindexter, U.S. Patent 5,651,657.

### III. ARGUMENT

#### A.

Claims 1-8 stand rejected under 35 USC § 102(b) as being anticipated by Kajita, U.S. Patent 4,273,217. Applicant respectfully traverses this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 2 USPQ2d 1051, 1053, (Fed. Cir. 1987). Also, "All words in a claim must be considered in judging patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). Furthermore, section 102 is designed to specifically exclude from patentable subject matter anything this is considered old. To successfully combat a prima facie case of anticipation, the Appellant must show that not all elements of prima facie anticipation have been met. The Federal Circuit endorsed this view in *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443 at 1444 (Fed. Cir. 1992) stating "[i]f the examination at the initial stage does not produce a prima facie case of unpatentability, then without more the Appellant is

entitled to grant of the patent." According to the Federal Circuit, "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*"

Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 22 USPQ 481, 485 (Fed. Cir. 1984)

(citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Independent claim 1

Kajita teaches a wheelchair lift including a bracket (82) connected to bus (5), and two pairs of lifting links (85) and (79) coupled between bracket (82) and a lift (B) comprised of step plate (11) and connecting plates (19) and (29). Step plate (13) attached to connecting plate (19) may be bent down to form a ramp for providing wheeled access of a wheelchair onto lift (A). Extending a power supply device (67) holds out links (55) and (61), which in turn lifts up horizontal device (41) and extends step plate (11) and connecting plates (19) and (29) forming lift (B). Extending power supplying device (91) turns arm (97), which turns down lift (B) to the ground. Step plate (13) is turned down by power supplying device (43). After a wheelchair rolls over step plate (13) onto lift (B)

consisting of step plate (11) and connecting plates (19) and (29) supported by links (55) and (61), power supplying device (43) is constricted thereby upturning step plate (13). Constricting power supplying device (91) turns arm (97), which turns up lift (B) to the floor of bus (5).

On page 2 of paper no. 20060418 comprising the present Office Action, lifting link (85) is referred to as a drive linkage, and lifting link (79) is referred to as a leveling linkage. Lifting link (85) is not a linkage. Lifting link (85) is a link. A link is not a linkage. A linkage according to Applicant's specification is movable between retracted and extended configurations. Lifting link (85) in Kajita cannot and does not move between retracted and extended configurations because it is only a link and not a linkage. Lifting link (79) is also not a linkage. Lifting link (79) is a link. Lifting link (79) in Kajita cannot and does not move between retracted and extended configurations because it is only a link and not a linkage. Accordingly, independent claim 1 is not anticipated by Kajita because the structure in Kajita is different from the structure set forth in independent claim 1.

Lifting link (79) is not a leveling link. Kajita

teaches that lifting link (79) lifts lift (B). Kajita is altogether silent as to any other function of lifting link (79). To conclude that lifting link (79) is a leveling link that prevents tilting of lift (B) during movement of lift (B) falls squarely outside the teachings of Kajita. If there is any structure in Kajita that keeps lift (B) level, it appears to be the extending of power supply device (67) holding out links (55) and (61), which in turn lifts up horizontal device (41) and extends step plate (11) and connecting plates (19) and (29) forming lift (B). Accordingly, independent claim 1 is not anticipated by Kajita.

Lift (B) in Kajita consists of power supply device (67) holding out links (55) and (61), which in turn lifts up horizontal device (41) and extends step plate (11) and connecting plates (19) and (29) forming lift (B). Lift (B) is not movable between raised and lowered positions relative to lift links (85) and (79). Power supplying device (91) moves lift links (85) and (79) causing lift (B) to move between raised and lowered positions. Applicant's independent claim 1 specifies a lift mechanism movable between a lowered position and a raised position relative to the drive linkage and the leveling linkage in the

extended configuration of the drive linkage. Because lift (B) cannot move between lowered and raised positions without drive linkages (85) and (79) driven by power supplying device (91), lift (B) includes drive linkages (85) and (79) and power supplying device (91) because drive linkages (85) and (79) powered by power supplying device (91) constitute the structure that moves lift (B) between raised and lowered positions. Accordingly, altogether missing in Kajita is any mechanism attached to lift (B), which includes the structure of drive linkages (85) and (79) and power supplying device (91), for moving lift (B) laterally as specified in Applicant's independent claim 1. Although lift (B) moves laterally as lift (B) is moved between its raised and lowered positions through the movement of lift links (85) and (79) by power supplying device (91), there is nothing other than the structure of lift (B) that moves lift (B) laterally independent of the movement of lift (B) between its raised and lowered positions. Accordingly, independent claim 1 is not anticipated by Kajita.

The structure in Kajita is clearly altogether different from the structure specified in Applicant's independent claim 1. The elements in Kajita cited by the

Examiner in the present Office Action are simply not provided and arranged in Kajita in the manner claimed by Applicant in independent claim 1, and simply do not amount to the structure claimed by Applicant in independent claim 1. Kajita is not, and cannot be, a section 102(b) reference against Applicant's independent claim 1. Kajita is not a section 102(b) reference against Applicant's claimed invention because it fails to teach each and every element of independent claim 1 in the order in which they appear. Independent claim 1 is not anticipated by Kajita, since each and every element as set forth in the claim is not found, either expressly or inherently described, in Kajita. Accordingly, the section 102(b) rejection of Applicant's independent claim 1 based on Kajita is moot and should be withdrawn.

Dependent claims 2-8

Claims 2-10 are each dependent upon a claim that is allowable according to the argument set forth above and, therefore, each of them is allowable. Applicant respectfully submits that the structure specified in dependent claims 2-8 is simply not in Kajita because the structure claimed in Applicant's independent claim 1 is not present in Kajita and the structure in Kajita is altogether



different that the structure claimed by Applicant in claims 1-8.

**B.**

Claim 9 stands rejected under 35 USC § 103(a) as being unpatentable over Kajita, U.S. Patent 4,273,217, in view of Olson, U.S. Patent 4,274,794. Applicant respectfully traverses this rejection.

Dependent claim 9

Claim 9 depends from dependent claim 8, which, in turn depends from independent claim 1, and is therefore dependent upon a claim that is allowable according to the argument set forth above and, therefore, is allowable. Applicant respectfully submits that the structure specified in dependent claim 9 is simply not in Kajita because the structure claimed in Applicant's dependent claim 8 and independent claim 1 is not present in Kajita and the structure in Kajita is altogether different that the structure claimed by Applicant in claims 1 and 8.

C.

Claim 10 stands rejected under 35 USC § 103(a) as being unpatentable over Kajita, U.S. Patent 4,273,217, in view of Poindexter, U.S. Patent 5,651,657. Applicant respectfully traverses this rejection.

Dependent claim 10

Claim 10 depends from independent claim 1, and is therefore dependent upon a claim that is allowable according to the argument set forth above and, therefore, is allowable. Applicant respectfully submits that the structure specified in dependent claim 10 is simply not in Kajita because the structure claimed in Applicant's independent claim 1 is not present in Kajita and the structure in Kajita is altogether different than the structure claimed by Applicant in claim 1.

**D.**

Claims 11-13, 16, and 17 stand rejected under 35 USC § 103(a) as being unpatentable over Uhrich et al., U.S. Patent 3,703,968. Applicant respectfully traverses this rejection.

Independent claim 11

Uhrich et al. teach a manipulator (14) consisting of first and second parallelogram linkages coupled between a support (15) mounted on a deep submergence vehicle (11) and a wrist support (28), although Uhrich et al. teach that any suitable implement may be carried by manipulator (14). The two parallelogram linkages maintain wrist support (28) in a constant special orientation throughout the range of relevant movement of wrist support (28) through the retraction and extension of the two parallelogram linkages.

On page 5 of paper no. 20060418, the Examiner states that wrist support (28) is a lift mechanism. Wrist support (28) is not a lift mechanism. Wrist support (28) is not movable between a lowered position and a raised position relative to the first and second parallelogram linkages. There is no teaching in Uhrich et al. of replacing wrist support (28) with a lift movable between a lowered position

and a raised position relative to the first and second parallelogram linkages. Because wrist support (28) is not capable of moving between a lowered position and a raised position relative to the first and second parallelogram linkages, it is not capable of lifting objects between raised and lowered positions relative to the first and second parallelogram linkages and would therefore not be capable of lifting objects between raised and lowered positions relative to the first and second parallelogram linkages in the extended configurations thereof and relative to a cargo deck. Although the Examiner states that Uhrich et al. disclose an apparatus that could be used with a vehicle having cargo deck, such a conclusion is hindsight and has no support in Uhrich et al. In concluding that Uhrich et al. disclose an apparatus that could be used with a vehicle having a cargo deck, the Examiner is reaching beyond the teachings of the prior art and appears to be working from personal knowledge in making this statement, in which case Applicant traverses this statement and respectfully requests an affidavit from the Examiner in support of this statement.

The apparatus in Uhrich et al. is a manipulator that is used to manipulate wrist support (28) or other implement

through the combined action of the first and second parallelogram linkages. The manipulator in Uhrich et al. is utilized in deep sea and interplanetary space applications. The invention claimed in independent claim 11 is not concerned with manipulating objects in space as is the case with manipulators. The invention claimed in independent claim 11 is concerned with providing a way to lift objects relative to a cargo deck of a vehicle, and transfer cargo between the cargo deck of the vehicle and a location away from, and below, the cargo deck of the vehicle.

There is no teaching in Uhrich et al. of modifying the apparatus in Uhrich et al. by mounting a base to a cargo deck of a vehicle, replacing wrist support (28) with a lift movable between raised and lowered positions, coupling the lift to the base with first and second parallelogram linkages, and arranging the base and the first and parallel linkages relative to the cargo deck of the vehicle in such a way that through the retraction and extension of the first and second parallelogram linkages lateral movement of the lift can be made relative to the cargo deck, and that in the extended configurations of the first and second parallelogram linkages that the lift is then movable

There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the modifications to Uhrich et al. as described above. Not only does the prior provide no such motivation, but also any motivation to provide the proposed modification to Uhrich et al. comes from Applicant's specification and not from the prior art. Moreover, the field of lifts used in conjunction with cargo beds of vehicles and the field of manipulators used to manipulate objects in deep sea and interplanetary space applications are completely different fields of endeavor. In other words, it has also not been established that a person of ordinary skill, seeking to solve the problem of

providing a way to move objects between a cargo deck and a lowered position relative to the cargo deck with a lift, and for providing a way to prevent tilting of the lift during lateral movement of the lift relative to the cargo deck would look to manipulators to provide external manipulation of objects in deep ocean or interplanetary space applications. Accordingly, one of ordinary skill in the art of lifts used in conjunction with cargo beds of vehicles could not be expected to look to the unrelated or nonanalogous field of manipulators used to manipulate objects in deep sea and interplanetary space applications. It is, therefore, Applicant's contention that Uhrich et al. is nonanalogous art, and that the gaps the Examiner is attempting to fill to reconstruct the apparatus in Uhrich et al. to arrive at Applicant's claimed invention come squarely from the teachings in Applicant's specification.

There is one other aspect of the rejection of claims 11-13, 16, and 17 that necessitates discussion. On page 5 of paper no. 20060418, the Examiner states that linkages (27) are drive linkages, and that linkages (18) and (26) are leveling linkages. Uhrich et al. do not characterize bars (27) as drive linkages, and does not characterize bars (18) and (26) as leveling linkages, and Applicant is

unclear what teachings in Uhrich et al. caused the Examiner to arrive at such a finding.

Uhrich et al. teach that bars (18), (19), support (15), and link (23) comprise a first parallelogram linkage, that arms (26), (27), link (23) and wrist support (28) comprise a second parallelogram linkage, and that these first and second parallelogram linkages maintain wrist support (28) and shoulder support (15) in a constant spatial orientation through the range of relevant movement. In Uhrich et al., wrist support (28) forms part of the second parallelogram linkage. In other words, support (28) is a required component of the second parallelogram linkage. Clearly, wrist support (28) is not a lift that is itself movement between raised and lowered positions, but is rather a necessary link forming part of the second parallelogram linkage. In discussing the first and second parallelogram linkages, Uhrich et al. do not identify or characterize any particular component thereof as the drive linkage, and does not identify or characterize any particular component thereof as a leveling linkage. In fact, the first and second parallelogram linkages taught by Uhrich et al. function together to maintain wrist support (28) and shoulder support (15) in a constant spatial



orientation, in which case there is no need for a leveling linkage. Because Uhrich et al. teach first and second parallelogram linkages as the structure that maintains wrist support (28) and shoulder support (15) in a constant spatial orientation, and because Uhrich et al. do not identify or characterize any particular component thereof as a leveling linkage, it is Applicant's contention that there is no linkage of the first and second parallelogram linkages that comprises a leveling linkage, and that, moreover, no leveling linkage is present in Uhrich et al. because the first and second parallelogram linkages taught by Uhrich et al. eliminate any need for any manner of leveling linkage. Furthermore, because Uhrich et al. teach first and second parallelogram linkages as the structure that maintains wrist support (28) and shoulder support (15) in a constant spatial orientation, and because Uhrich et al. do not identify or characterize any particular component thereof as a leveling linkage, it is Applicant's contention that Uhrich et al. is not an enabling reference as to a leveling linkage forming part of either of the first and second parallelogram linkages.

Dependent claims 12 and 13

Claims 12 and 13 are each dependent upon a claim that is allowable according to the argument set forth above and, therefore, each of them is allowable. As to claim 13, there is no teaching in Uhrich et al. of a lift mechanism that is enabled for movement between raised and lowered positions with the drive linkages attached thereto are disposed in an extended configuration and a retracted configuration, and disabled for movement between the raised and lowered positions thereof with the drive linkages in between the extended configuration thereof and the retracted configuration thereof.

Independent claim 16

Independent claim 16 claims the same basic structure as independent claim 11, and is therefore not unpatentable over Uhrich et al. for the same arguments set forth in conjunction with independent claim 11, which arguments are incorporated herein.

Dependent claim 17

Claim 17 is dependent upon claim 16, which is allowable according to the argument set forth above and, therefore, is allowable. As to claim 17, there is no

teaching in Uhrich et al. of a lift mechanism that is enabled for movement between raised and lowered positions with the drive linkages attached thereto are disposed in an extended configuration and a retracted configuration, and disabled for movement between the raised and lowered positions thereof with the drive linkages in between the extended configuration thereof and the retracted configuration thereof.

**E.**

Claims 14 and 18 stand rejected under 35 USC § 103(a) as being unpatentable over Uhrich et al., U.S. Patent 3,703,968, in view of Olson, U.S. Patent 4,274,794. Applicant respectfully traverses this rejection.

Dependent claim 14

Claim 14 is dependent upon claim 11, which is allowable according to the argument set forth above and, therefore, is allowable.

Dependent claim 18

Claim 18 is dependent upon claim 16, which is allowable according to the argument set forth above and, therefore, is allowable.

**F.**

Claims 15 and 19 stand rejected under 35 USC § 103(a) as being unpatentable over Uhrich et al., U.S. Patent 3,703,968, in view of Poindexter, U.S. Patent 5,651,657.

Dependent claim 15

Claim 15 is dependent upon claim 11, which is allowable according to the argument set forth above and, therefore, is allowable.

Dependent claim 19

Claim 19 is dependent upon claim 16, which is allowable according to the argument set forth above and, therefore, is allowable.

**CONCLUSION**

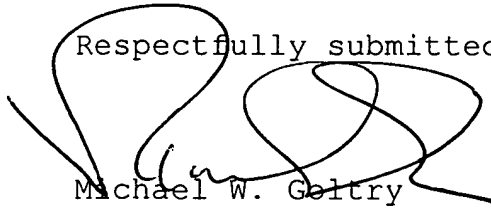
Pursuant to the foregoing, Appellant believes that the rejections of independent claims 1, 11, and 16 are not supported by the prior art of record in this case, and that the rejections thereof and of the corresponding dependent claims are moot and should be withdrawn. Accordingly, Applicant traverses each and every rejection set forth by

the examiner in Paper No. 20060418. Any particular rejection not specifically addressed is not to be deemed to be Applicant's agreement with, or Applicant's acquiescence to, the Examiner's position or interpretation of the prior art. It is to be understood that Applicant's present response is for the purpose of overcoming the rejections of the subject matter set forth in the pending independent claims, in which the subject matter claimed therein is presently desirable to Applicant in the present application.

In view of the foregoing, Applicant submits that the invention disclosed and claimed in this application is patentable and not anticipated or obvious over the prior art of record in this case. Therefore, allowance of the present application is in order and respectfully requested.

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Respectfully submitted,

  
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